

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 575

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO TRADEMARKS; AMENDING SECTION 48-504, IDAHO CODE, TO REVISE THE PROVISIONS FOR FILING OF APPLICATIONS FOR TRADEMARKS; AND AMENDING SECTION 48-510, IDAHO CODE, TO REQUIRE TRADEMARK RENEWAL APPLICATIONS TO USE THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 48-504, Idaho Code, be, and the same is hereby amended to read as follows:

48-504. FILING OF APPLICATIONS. (1) Upon the ~~filing receipt~~ of an application for registration and payment of the application fee, the secretary of state ~~may~~ shall cause the application to be examined for conformity with this ~~act~~ chapter.

(2) The applicant shall provide any additional pertinent information requested by the secretary of state including a description of a design mark and may make, or authorize the secretary of state to make, such amendments to the application as may be reasonably requested by the secretary of state or deemed by the applicant to be advisable to respond to any rejection or objection.

(3) The secretary of state may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter is distinctive of the applicant's or registrant's goods or services.

(4) Amendments may be made by the secretary of state upon the application submitted by the applicant upon the applicant's agreement, or the secretary of state may require a fresh application.

(5) If the applicant is found not to be entitled to registration, the secretary of state shall advise the applicant thereof and of the reasons therefor. The applicant shall have a reasonable period of time specified by the secretary of state in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until: (a) the secretary of state finally refuses registration of the mark; or (b) the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

(6) If the secretary of state finally refuses registration of the mark, the applicant may appeal the denial of such registration to the district court in and for Ada county. The court may compel registration of the mark, but without cost to the secretary of state, on proof that all the statements

1 in the application are true and that the mark is otherwise entitled to regis-
2 tration.

3 (7) In the instance of applications concurrently being processed by
4 the secretary of state which seek registration of the same or confusingly
5 similar marks for the same or related goods or services, the secretary of
6 state shall grant priority to the applications in order of filing. If a
7 prior-filed application is granted a registration, the other application
8 or applications shall then be rejected. Any rejected applicant may bring an
9 action for cancellation of the registration upon grounds of prior or supe-
10 rior rights to the mark, in accordance with the provisions of section 48-509,
11 Idaho Code.

12 SECTION 2. That Section 48-510, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 48-510. CLASSIFICATION. The secretary of state shall use the interna-
15 tional classification of goods and services for convenience of administra-
16 tion of this act, but not to limit or extend the applicant's or registrant's
17 rights, and a single application for registration of a mark may include any
18 or all goods upon which, or services with which, the mark is actually being
19 used indicating the appropriate class or classes of goods or services. When
20 a single application includes goods or services which fall within multi-
21 ple classes, the secretary of state may require payment of a fee for each
22 class. To the extent practicable, the classification of goods and services
23 ~~should~~ shall conform to the classification adopted by the United States
24 patent and trademark office. Applications for renewal shall be filed using
25 the international classification of goods and services. ~~in effect when the~~
26 ~~trademark was approved by the secretary of state; provided that a registrant~~
27 ~~may request a~~ A renewed registration to ~~shall be issued by the secretary of~~
28 ~~state, under the international classification of goods and services, .When~~
29 ~~such a request is made, the secretary of state shall issue the renewed cer-~~
30 ~~tificate as requested by the registrant if such renewal would not extend~~
31 expand the registrant's rights.